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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

22 ORACLE USA, INC., *et al.*  
 23 Plaintiffs,  
 24 v.  
 25 SAP AG, *et al.*,  
 26 Defendants.

CASE NO. 07-CV-01658 PJH (EDL)  
**STIPULATION TO PERMIT  
 PLAINTIFFS TO FILE OPPOSITION  
 TO MOTION TO DISMISS, AND  
 DECLARATIONS AND EXHIBITS IN  
 SUPPORT THEREOF, UNDER SEAL**

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1 Pursuant to Local Rules 7-11(a) and 79-5(b)-(c), Plaintiffs Oracle USA Inc., Oracle  
2 International Corporation, Oracle Systems Corporation, Oracle EMEA Limited, and J.D.  
3 Edwards Europe Limited (“Plaintiffs”) and Defendants SAP AG, SAP America, Inc., and  
4 TomorrowNow, Inc. (“Defendants”) jointly submit this stipulation to permit Plaintiffs to file  
5 their Opposition to Defendants’ Motion to Dismiss (“Opposition”), and declaration and exhibits  
6 in support thereof, under seal.

7 The requested relief is necessary and narrowly tailored to protect the alleged  
8 confidentiality of the materials relied upon by Plaintiffs in opposing the Motion to Dismiss filed  
9 by Defendants on October 15, 2008, until such time as the Court rules on the confidentiality of  
10 the relevant subject matter.

11 Specifically, Exhibits D–T to the Declaration of Chad L. Russell in support of Plaintiffs’  
12 Opposition to the Motion to Dismiss (“Russell Declaration”), and references to these exhibits  
13 within the Opposition to Motion to Dismiss and the Declaration of Kevin Mandia in support of  
14 the Opposition to Motion to Dismiss (“Mandia Declaration”), contain information designated by  
15 Defendants as “Confidential Information” and “Highly Confidential Information - Attorneys’  
16 Eyes Only,” pursuant to the Protective Order entered in this action on June 6, 2007.

17 Accordingly, the parties, through their respective counsel of record, stipulate that  
18 Plaintiffs be permitted to file Exhibits D–T to the Russell Declaration, and unredacted versions  
19 of Plaintiffs’ Opposition and the Mandia Declaration under seal. The parties further agree that  
20 Plaintiffs reserve their rights to challenge the confidentiality of the information filed under seal  
21 pursuant to this stipulation. The parties agree that neither the act of filing nor the filed  
22 documents shall be construed as a waiver of confidentiality designation or other protection with  
23 respect to documents, transcripts, or other information referred to in, or that serve as the basis  
24 for, the allegations or arguments made therein.

25 IT IS SO STIPULATED.  
26  
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1 DATED: October 29, 2008

BINGHAM McCUTCHEN LLP

2  
3 By: /s/ Zachary J. Alinder

4 Zachary J. Alinder  
5 Attorneys for Plaintiffs  
6 ORACLE USA, INC., ORACLE  
7 INTERNATIONAL CORP., ORACLE  
8 SYSTEMS CORP.,  
9 ORACLE EMEA LTD., AND J.D.  
10 EDWARDS EUROPE LTD.

11  
12 In accordance with General Order No. 45, Rule X, the above signatory attests that  
13 concurrence in the filing of this document has been obtained from the signatory below.

14 DATED: October 29, 2008

JONES DAY

15  
16 By: /s/ Tharan Gregory Lanier

17 Tharan Gregory Lanier  
18 Attorneys for Defendants  
19 SAP AG, SAP AMERICA, INC., AND  
20 TOMORROWNOW, INC.